



MICHIGAN
HOUSE OF REPRESENTATIVES
P.O. Box 30014
LANSING, MICHIGAN 48909-7514

MINUTES OF THE STANDING COMMITTEE ON INSURANCE

Thursday, December 8, 2016 9:00 a.m. Room 519 House Office Building, Lansing

Representative Leonard, Chair, called the meeting to order.

MEMBERS PRESENT: Representatives Leonard, Theis, Franz, Goike, Glardon, LaFontaine, Lyons, Barrett, Runestad, Vaupel, Webber, Cochran, Banks, Clemente, Kosowski, Gay-Dagnogo, Wittenberg.

Representative Goike made a motion to adopt the minutes of the meeting held on December 1, 2016. No objections being offered, the minutes were accepted as presented.

The Chair laid the following bill before the Committee.

SB 1104 (Shirkey) Torts; medical malpractice; damages for medical expenses; limit.

Jim Bradley, representing the Negligence Section, State Bar of Michigan, spoke in opposition to the bill (with amendments).

Robert Kamenec, representing the Insurance Institute of Michigan, reviewed proposed amendments with the Committee.

Cards indicating support for SB 1104 were submitted by:

Frank Venuto, representing Proassurance

Nathan Medina, representing The Doctors Company

Representative Cochran offered the following amendment to SB 1104.

1. Amend page 1, line 10, by striking out "TRIAL" and inserting "A POST-VERDICT COLLATERAL SOURCE HEARING UNDER SECTION 6306".

Representative Wittenberg made a motion to amend SB 1104.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Cochran, Banks, Clemente, Kosowski, Gay-Dagnogo, Wittenberg. (6/17)

Nays: Representatives Leonard, Theis, Franz, Goike, Glardon, LaFontaine, Lyons, Barrett, Runestad, Vaupel, Webber. (11/17)

Pass: None. (0/17) (6/11/0)

An insufficient number of members voting in the affirmative, the motion prevailed.

Representative Cochran offered the following amendment to SB 1104.

1. Amend page 1, following line 10, by inserting:

"(2) AN INSURER CLAIMING SUBROGATION OR REIMBURSEMENT RIGHTS FOR MEDICAL EXPENSES OR REHABILITATION EXPENSES SHALL PAY, OUT OF THE AMOUNT RECEIVED FROM THE INSURED, THE INSURER'S PRO RATA SHARE OF THE REASONABLE AND NECESSARY COSTS AND EXPENSES, INCLUDING ATTORNEY FEES, OF ASSERTING THE THIRD PARTY CLAIM FROM THE AMOUNT RECEIVED FROM THE INSURED." and renumbering the remaining subsection.

Representative Kosowski made a motion to amend SB 1104.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Cochran, Banks, Clemente, Kosowski, Gay-Dagnogo, Wittenberg. (6/17)

Nays: Representatives Leonard, Theis, Franz, Goike, Glardon, LaFontaine, Lyons, Barrett, Runestad, Vaupel, Webber. (11/17)

Pass: None. (0/17) (6/11/0)

An insufficient number of members voting in the affirmative, the motion did not prevail.

Representative Cochran offered the following amendment to SB 1104.

1. Amend page 1, following line 10, by inserting:

"(2) AN INSURER CLAIMING SUBROGATION OR REIMBURSEMENT RIGHTS FOR MEDICAL EXPENSES OR REHABILITATION EXPENSES IS ONLY ENTITLED TO CLAIM AGAINST THE AMOUNT ALLOCATED TO THOSE MEDICAL EXPENSES OR REHABILITATION EXPENSES, AND IS NOT ENTITLED TO RECEIVE ANY AMOUNT FROM A PAYMENT MADE TO OR ON BEHALF OF ITS INSURED FOR NONECONOMIC LOSSES OR FOR UNRELATED ECONOMIC LOSSES." and renumbering the remaining subsection.

Representative Wittenberg made a motion to amend SB 1104.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Cochran, Banks, Clemente, Kosowski, Gay-Dagnogo, Wittenberg. (6/17)

Nays: Representatives Leonard, Theis, Franz, Goike, Glardon, LaFontaine, Lyons, Barrett, Runestad, Vaupel, Webber. (11/17)

Pass: None. (0/17) (6/11/0)

An insufficient number of members voting in the affirmative, the motion did not prevail.

Representative Cochran offered the following amendment to SB 1104.

1. Amend page 1, following line 10, by inserting:

"(2) AN INSURER CLAIMING SUBROGATION OR REIMBURSEMENT RIGHTS FOR MEDICAL EXPENSES OR REHABILITATION EXPENSES IS ONLY ENTITLED TO CLAIM AGAINST THE PROCEEDS OF A SETTLEMENT IF THE

INSURER ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT ITS INSURED HAS OTHERWISE BEEN MADE WHOLE FOR THE NONECONOMIC LOSSES AND OTHER UNRELATED ECONOMIC LOSSES SUFFERED AS A RESULT OF THE MEDICAL MALPRACTICE." and renumbering the remaining subsection.

Representative Wittenberg made a motion to amend SB 1104.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Cochran, Banks, Clemente, Kosowski, Gay-Dagnogo, Wittenberg. (6/17)

Nays: Representatives Leonard, Theis, Franz, Goike, Glardon, LaFontaine, Lyons, Barrett, Runestad, Vaupel, Webber. (11/17)

Pass: None. (0/17) (6/11/0)

An insufficient number of members voting in the affirmative, the motion did not prevail.

Representative Cochran offered the following amendment to SB 1104.

1. Amend page 2, line 16, by striking out "an action filed" and inserting "a cause of action for medical malpractice that accrues".

Representative Wittenberg made a motion to amend SB 1104.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Cochran, Banks, Clemente, Kosowski, Gay-Dagnogo, Wittenberg. (6/17)

Nays: Representatives Leonard, Theis, Franz, Goike, Glardon, LaFontaine, Lyons, Barrett, Runestad, Vaupel, Webber. (11/17)

Pass: None. (0/17) (6/11/0)

An insufficient number of members voting in the affirmative, the motion did not prevail.

Representative Goike made a motion to report SB 1104 with recommendation.

FAVORABLE ROLL CALL:

Yeas: Representatives Leonard, Theis, Franz, Goike, Glardon, LaFontaine, Lyons, Barrett, Runestad, Vaupel, Webber, Banks, Clemente, Kosowski, Gay-Dagnogo. (15/17)

Nays: Representatives Cochran, Wittenberg. (2/17)

A sufficient number of members voting in the affirmative, the motion prevailed.

There being no additional business before the Committee, Chair Leonard declared the meeting adjourned, the time being 9:40 a.m.

Representative Tom Leonard, Chair

Catherine Petroskey, Committee Clerk (517) 37308538